
Appeal Decision

Site visit made on 10 May 2016

by Daniel Hartley MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2016

Appeal Ref: APP/Z4310/W/16/3144329

14 Moss Lane, Liverpool L9 8AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Liam Gallagher against the decision of Liverpool City Council.
 - The application Ref 15F/2653, dated 20 October 2015, was refused by notice dated 22 December 2015.
 - The development proposed is to use the property as a 9 bedroom house in multiple occupation and to erect a dormer to the rear and a conservatory to the rear.
-

Decision

1. The appeal is allowed and planning permission is granted to use the property as a 9 bedroom house in multiple occupation and to erect a dormer to the rear and a conservatory to the rear at 14 Moss Lane, Liverpool L9 8AJ, in accordance with the terms of the application Ref 15F/2653, dated 20 October 2015, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Liam Gallagher against Liverpool City Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have used the description of development from the Council's refusal notice as this includes the proposed dormer and conservatory to the rear. This has been agreed by the appellant and the Council.
4. The appellant has included amended Drawing No 02 Rev B "Proposed Plans and Elevations". This was not the subject of public consultation and was not considered by the Council. Therefore, I have determined this appeal on the basis of Drawing No 02 Rev A "Proposed Plans and Elevations" and not Drawing No 02 Rev B "Proposed Plans and Elevations".

Main Issues

5. The main issues are the effect of the proposal upon (i) social cohesion and the balance of housing accommodation in the area; (ii) the living conditions of the occupiers of the building and neighbouring properties; and (iii) the character of the area.

Reasons

Site and proposal

6. The application site comprises a large semi-detached dwelling located on the northern side of Moss Lane in an area which is predominantly residential in character. The dwelling has seven bedrooms and according to the appellant has been vacant for more than two years.
7. It is proposed to change the use of the dwelling to a nine bedroom house in multiple occupation (HMO). Most of the bedrooms would be en-suite and there would be a kitchen/dining area on the ground floor and communal shower room on the second floor. The ninth bedroom would be formed as a result of the erection of a rear dormer. Additional ground floor communal space would be formed as a result of a proposed rear conservatory. The rear garden area would be available for all residents, on-site parking would be available for three vehicles and a bin store is proposed to the side/rear of the property.

Social cohesion and balance of housing accommodation

8. I have not been provided with any objective evidence to demonstrate that there is an overconcentration of HMOs in the area. Furthermore, the Council has no development plan policies in place that would specifically control HMOs from a cumulative effect / balance of accommodation point of view. Saved Policy H7 of the Liverpool Unitary Development Plan 2002 (UDP), and the associated Supplementary Planning Guidance Note 7 "Conversion of Buildings into Flats and Bedsits" (SPG), do not seek to limit the number of HMOs in any one area, but instead they seek to control HMO proposals in terms of "suitable premises". I return to this issue later in this Decision.
9. I have no reason to doubt what the appellant says about introducing a number of measures (ie vetting of tenants, telephone contact details for neighbours, quarterly inspections of bedrooms, weekly monitoring of the site by cleaners/gardeners) to ensure that the HMO is well managed so as to avoid potential anti-social or disorderly activities taking place from the site. In this regard, and in the absence of any substantive contrary evidence from the Council, I do not consider that there would be any conflict with Paragraph 58 of the National Planning Policy Framework (the Framework) which states that planning decisions should aim to ensure that developments "*create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion*".
10. On the evidence before me, I conclude that the proposal would not cause harm to social cohesion, nor to the balance of housing accommodation in the area. In respect of this matter there are no relevant policies in the Liverpool Unitary Development Plan 2002 (UDP), and there would be no conflict with the Framework.

Living conditions

11. The bedroom sizes for the HMO would exceed minimum size requirements for the purposes of a HMO license. I have no reason to doubt the conclusions reached by the Council officers in respect of all inside and outside communal space being suitable in terms of size and position. I am satisfied that the proposal would be acceptable in terms of room sizes and communal space: in this regard, I do not consider that there is any evidence that the proposal

would cause harm to the living conditions of the occupiers of future residents of the HMO. I therefore consider that the building is a "suitable premises" for a HMO taking into account Policy H7 of the UDP, and the SPG.

12. Whilst the proposal would represent a more intensive use of the building, when compared to use of the existing building as a seven bedroom dwelling, I do not consider that the change would be material. The building is large, includes adequate outside space and the main entrance is positioned well away from No 16 Moss Lane. No 12 Moss Lane is positioned some distance from this entrance and there is mature trees/vegetation along the party boundary which has a screening effect. I do not consider that the occupation of the building by up to nine residents would result in a significant increase in noise / disturbance for the occupiers of neighbouring residential properties when compared to the existing use of the dwelling as a seven bedroom house.
13. I note that the Council's Highways Department has raised no objection to the proposal and that the officer report to the Planning Committee states *"developments of this type generally provide housing for residents who rely more on public transport, walking and cycling modes of travel, rather than attract those who require dedicated parking. The site is well served by public transport, with Orrell park railway station less than 100m away and bus services available from Moss Lane and Rice Lane. Local shops and services are within easy walking distance. As such, residents would not have to rely on a private vehicle...For those resident's or visitors who do require some parking provisions there are three spaces within curtilage which is considered satisfactory for the anticipated low number of associated vehicles and on this basis the Highways Manger would offer no objection to the proposals"*. I share these views, and hence I do not consider that it is necessary to provide the full quantum of off street car parking spaces required by Policy H7 of the UDP.
14. I do consider that it is necessary to limit the numbers of residents to nine at any one time: the appellant has confirmed that the appeal is made on this basis. If the bedrooms were occupied by couples then this would mean that up to 18 residents could occupy the building at any one time. This could have unacceptable noise / disturbance impacts, in terms of comings and goings, upon the occupiers of neighbouring residential properties. It may also have car parking implications.
15. Subject to the imposition of an occupancy planning condition, I conclude that the proposal would not have a significantly adverse effect upon the living conditions of either the occupiers of the HMO, or the neighbouring residential properties. In this respect, I find no conflict with the amenity aims of saved Policies H4 and H7 of the UDP and the SPG.

Character of the area

16. I have not been provided with any evidence to demonstrate that use of the building as a HMO, when compared to its use as a seven bedroom dwelling, would in itself materially change the character of the area. Whilst the building would be used slightly more intensively than as a dwelling, I consider that it is reasonable to conclude that the character of the area would not change significantly. This is particularly the case when considered in the context of the imposition of a planning condition limiting occupation to no more than nine residents.

17. The proposal would include a conservatory and dormer to the rear. The dormer could be erected, in association with the use of the building as a dwelling, without the need for planning permission. According to the Council's committee report it would appear that the appellant's intention was to erect the dormer in advance of use of the building as a HMO. The conservatory and bin store to the rear would be subordinate in scale to the host property. This operational development would be "residential" in appearance and is the sort of development that one might reasonably expect to see on the rear of a domestic property.
18. In conclusion, I am not persuaded that either the use or the operational development would cause harm to the character of the area. Therefore, I do not find conflict with Policy H7 of the UDP which seeks to consider the impact of development proposals *"on the character of the surrounding area"*.

Other Matters

19. I have taken into account all representations made by interested parties, including the occupier of 23 Moss Lane. In respect of the representation made by the occupier of 23 Moss Lane the effect of the proposal on property values is not a material planning consideration. For the reasons outlined in this Decision, I do not consider that the proposal would lead to on-street car parking problems or unacceptable traffic generation. The loss of trees on the site is not a matter to be considered as part of this appeal. I am required to determine this appeal on land use planning grounds, and not on the basis of who may or may not occupy the HMO in the future.
20. The grant of planning permission does not outweigh the need for Building Regulations approval. This is a separate regime to control development, and it does not follow that the grant of planning permission automatically equates to an approval under the Building Regulations. I do not consider that the proposal would result in any more noise than there would be from the use of the existing building as a dwelling.
21. I have no reason to disagree with the Council that both the dormer and the conservatory are acceptable in terms of their design and effect upon the living conditions of the occupiers of neighbouring residential development.
22. None of the other matters, including comments made by interested parties, outweigh my conclusions on the main issues.

Conditions

23. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
24. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect
25. In the interests of safeguarding the living conditions of the occupiers of neighbouring residential properties a condition is necessary limiting occupancy of the HMO to no more than 9 persons at any one time.

Conclusion

26. I have not been provided with any objective evidence to substantiate the claim that the proposal would cause harm to social cohesion or to the balance of housing accommodation in the area. Subject to conditional control, the proposal would not cause harm to the living conditions of the occupiers of the HMO or to neighbouring residential properties. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 03 Rev A "Site and Location Plans", Drawing No 01 Rev A "Existing Plans and Elevations" and Drawing No 02 Rev A "Proposed Plans and Elevations".
3. The maximum number of occupants residing at the property shall not exceed 9 persons at any one time.